UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES C	F AMERICA,)) ()	Case No.	2:25-cr-00083-GJP-1
	Plaintiff,		Courtroom J.S. Cour	
V.)) 6	01 Marke	et Street
DAVID BOLWELL,)) E	Philadelr	ohia, PA 19106
)) F	ebruary	19, 2025
	Defendant.)) 1	:50 p.m.	•

TRANSCRIPT OF DETENTION HEARING
BEFORE HONORABLE CAROL SANDRA MOORE WELLS
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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             THE COURT: The United States versus David Bolwell.
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             All right, it's my understanding that you have now
 2
   retained counsel here today.
 3
             MS. MARR: That's correct, Your Honor.
 4
 5
             THE COURT: All right.
             MS. MARR: Gail Marr on behalf of the defendant.
 6
 7
             THE COURT: All right. Be seated for a minute
 8
             To the government, I don't believe I've given you a
 9
   Brady instruction yet.
10
             MS. ROTELLA: You have not, Your Honor.
11
             THE COURT: I hereby issue an order confirming that
   the United States has an obligation to timely disclose Brady
12
   information to the defendant.
13
             I remind government counsel that failure to comply
14
   with these disclosure obligations may result in consequences
15
   such as: the exclusion of evidence; the dismissal of charges;
16
   contempt proceedings; disciplinary referral; and any other
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   relief authorized by law.
18
19
             I will enter a written order further confirming these
20
   obligations.
21
             Do you understand and accept them?
             MS. ROTELLA: I do, Your Honor.
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23
             THE COURT: All right. In plain English, as you
   heard me explain to the last defendant, that means if the
24
   government has evidence that would help you prove that you are
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1
   innocent, they have to turn it over to your attorney.
   understand that?
 2
 3
             MR. BOLWELL: (No verbal response).
             THE COURT: You have to talk.
 4
 5
             MR. BOLWELL: Yes, Your Honor.
             THE COURT: We record this.
 6
 7
             MR. BOLWELL: Yes, Your Honor.
 8
             THE COURT: All right; thank you.
 9
             All right. Today, do you wish a preliminary
10
   examination for your client?
11
             MS. MARR: I'm sorry, Your Honor. I was looking at
12
   papers.
13
             THE COURT: I know, you're rushing. Okay, take a
14
   second.
             MS. MARR: May -- will you please repeat what you
15
   just said?
16
             THE COURT: Would you like a preliminary examination,
17
18
   or do you wish to waive that?
19
             MS. MARR: I'll waive that, Your Honor.
20
             THE COURT: All right. Because your attorney has
21
   waived the preliminary examination, I find, based on the
   complaint and warrant, and things that I have already reviewed,
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23
   that there is enough evidence to hold you over for trial. You
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   can prove your innocence at a later time. This is not your
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   court date. This is not your final adjudication.
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             All I'm trying to see is whether you should even be
 1
   sitting here.
 2
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             This is also a time when we consider bail. Counsel,
   do you have any recommendations?
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             MS. MARR: Your Honor, my client has been fully
 5
   cooperative throughout this process. I understand that usually
 6
   there is a pretrial risk assessment performed; was that done?
 7
             THE COURT: That was done. Pretrial Services has
 8
   issued a risk assessment.
 9
10
             MS. MARR: I have not seen that.
11
             THE COURT: Do we --
             MR. BAKER: Your Honor, it was emailed --
12
13
             THE COURT: Okay.
             MR. BAKER: -- to counsel, and I also have copies
14
15 here.
16
             THE COURT: All right, they're going to give you a
17
   copy.
18
             MS. MARR:
                        Thank you. Your Honor, may I have a
19
   moment.
20
             THE COURT: Take your time.
21
                                (Pause)
22
             THE COURT: The government has had an opportunity to
23
   look at the Pretrial Services report. Do you have argument you
24
   wish to make?
25
             MS. ROTELLA: Yes, Your Honor.
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THE COURT: All right, I'm going to wait then.

(Pause)

MS. MARR: So, Your Honor, after reviewing the report, it appears that the Pretrial Services is recommending \$100,000 own recognizance bond with Pretrial Services, as well as other conditions. We have no objection to that.

This is a case where my client has no prior record.

He was fully cooperative. He went in with counsel and met with the Philadelphia Police. He -- he obtained counsel. You know, he has counsel for this case.

I understand in the government's motion for pretrial detention that they were asking for -- or that they are talking about facing possible life imprisonment. This case hasn't gone that far yet, obviously. And the allegations regarding the -- from the complaint for the production of child pornography are ones that I believe he will have a potential defense for in terms of a trial on the matter.

So -- and it would be much more beneficial for him to be able to cooperate with counsel. His daughter and her husband are in the courtroom, that have stated that they would -- that he could live with them. The son-in-law has a job that my client can do, so he can work, and he can obtain funds so that he can continue to have private counsel.

This case started out as a Philadelphia stalking-type case, and then turned into what you have before Your Honor

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   today. But I would like to be able to be here, and represent
 1
   my client, and it would just be so much easier and better for
 2
  him in preparing a defense for himself if he is able to be in a
 3
 4 position to assist counsel with that defense, because this
 5
   really came up within a week. This isn't some investigation
   that's been going on where, you know -- I mean, the week -- we
 6
   were there before the parade, and now here we are.
 7
 8
             And I understand the process has happened quickly,
   and I appreciate that the detention hearing happened so
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10
   quickly. However, I think that release in this case is
   warranted, as opposed to the presumption that is argued by the
11
12
   Commonwealth in terms of the potential incarceration in this
13
   case.
             THE COURT: All right.
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             MS. MARR: Thank you.
15
             THE COURT: This is the federal government, not the
16
   Commonwealth --
17
             MS. MARR: Oh, I'm sorry.
18
19
             THE COURT: -- making the allegations.
20
             MS. MARR:
                        I'm sorry.
21
             THE COURT: That's okay.
22
             MS. MARR: I was just on a conference call and --
23
             THE COURT: You're usually -- yes.
24
             All right, I'll hear from the government now.
25
             MS. ROTELLA: Your Honor, the case is much more
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serious than what's just been discussed here before the Court.

The allegations in this case are in federal court. The charge that he is facing now, which is manufacture and attempt to manufacture of child pornography carries a 30-year stat max. But most significantly, it carries a 15-year mandatory minimum. In this district, I can't think of one time that we have waived the mandatory minimum. And so he faces a certain and significant prison sentence upon conviction.

He is -- the facts underlying the case are extremely disturbing. The child -- it was first started because the child was walking home from school and was approached by the defendant, and -- who she did not know at that time. He handed her a handwritten, very sexually explicit, very disturbing letter, and then walked away.

And when -- the child read the letter; gave it to her mother. The mother contacted the police. And excerpts from the letter were put in the government's memorandum to -- or sorry, motion to detain him. And the letter was much longer. The letter included reference to eight of her friends that he had also been spying on, with their true first and last names. It was very sexually explicit. He admitted in writing in his letter that he had been watching her and recording her in sexually explicit positions. He made comments himself about sexual acts.

He, of course, signed the letter saying, "I still think you're very sexy and beautiful," all under the guise of him trying to help this victim, saying that -- posing as a special investigator, which, of course, he is not. And saying that he could help her, but she couldn't tell the parents, and she couldn't tell law enforcement. All in an effort to try to get her to meet up with him person-on-person.

Because what the investigation later determined, of course, is that he had been stalking her for well over a year. That he had been -- he lives across the alleyway from this child. His house can look directly into this child's bedroom, and that's, in fact, how he was manufacturing this child pornography, and the images that were recovered show that.

He had been videotaping her, recording her, photographing her as she was in her bedroom, in various states of dress, zooming in on some images. There are numerous images that qualify as child pornography because they depict her vagina, and other parts of her body, naked body.

And then culminating in him stalking her online accounts, her Twitter account, her Snapchat account. He found out her true name. He knew where she went to school. He knew what sports she played. He knew her schedule. He would photograph her. In addition to all the sexually explicit images that were found on his cell phone, that he admitted was his, they also found images where he was walking behind her and

recording her as she was simply walking home from school. He was videotaping her going into her house. So, seemingly innocuous, but his phone was loaded with these things.

And there's also -- the history on the phone shows that he was -- where his location was, and that he was, in fact, stalking this child.

And so that alone warrants his detention in this case, because there is no way to eradicate the danger that he poses to this child, or to any other that he may eventually have a fixation with.

But in addition to that, the phone that is at issue here that belonged to this defendant was seized by way of search warrant by the Philadelphia Police Department, and then they got another search warrant to review the phone. The FBI also participated in that review, and they confirmed all the images that I just talked about with this 14-year-old victim. But they also found over a thousand images of child pornography, mostly prepubescent children, kids who had not reached puberty, children who are -- have already been identified that were easily recognizable by this agent who sits with me, Agent Leslie Trawick from the FBI, and images and videos depicting sadistic torture of these children as they're being sexually abused.

So, he's well entrenched in the underworld of child pornography, and has demonstrated that he is more than willing

to center in on one child victim, and to reach out beyond the confines of his own home, to stalk this child, and to, in fact, approach her and try to get her to meet up with him.

I should also indicate there was almost -- I laid it out in the motion, but there was, like, a -- almost a year's time that went by. During the time that he was filming her in these sexual positions in her house and also, you know, outside, he was putting a mask on his face so she wouldn't be able to see what was and from the own -- his own home, he would flash a flashlight up into her bedroom window, and he'd be masturbating.

And so part of the masturbation, part of the sexual gratification for this defendant was to have this child look over and be scared that somebody was out there masturbating. And that continued. That was all part of the harassment, the stalking, the sexual victimization of this child, and it all goes into the danger that he poses if this Court were to release him.

And so let me just talk a bit about the Pretrial Services. I have worked with Michael Baker for many years from Pretrial Services. This is not an indictment of their --

THE COURT: Ms. Marr, you may be seated, because she seems to be going to go for a while.

MS. MARR: Thank you; I apologize.

MS. ROTELLA: This is not an indictment of their

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agency, Your Honor, or the -- nor the author of the report, or
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   anything of that nature. But this recommendation in no way
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   addresses the presumption that he is a danger, the presumption
   that he's supposed to be detained because he's a flight risk.
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   It doesn't address it.
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             THE COURT: I think it --
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             MS. ROTELLA: An OR bail --
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             THE COURT: It has 17 points. Usually we have ten,
             So, they did give it extra attention.
 9
   at most.
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             MS. ROTELLA: No, no, and I recognize that.
   did, yes, because the main thing here that they're looking for
11
12
   is location monitoring.
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             But I ask the Court to consider this, which is what I
   filed as part of my memo. Their powers are very limited, and
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   Officer Baker will admit that to this Court; he and I have
15
   talked many times, including before this hearing. Their powers
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   are limited. They cannot search a person's home.
17
                                                      So, they
   are complete -- if -- if you have computer monitoring, for
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19
   example, we're going to monitor his cell phone to see he's not
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   accessing child pornography. It's completely reliant upon this
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   defendant reporting to Pretrial Services, "This is my only cell
22
   phone."
23
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Because, of course, if he should go out to buy another cell phone, if he would have Amazon deliver him another cell phone, if he were to hide a cell phone simply by sticking

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it in a drawer, Pretrial Services cannot search the house.

Even if they were to find the unauthorized cell phone, which I don't know how they would, unless he left it right open in the -- on the, you know, desk, even if they were to find an unauthorized cell phone, they are not permitted by their own rules to seize the cell phone. They're not permitted to look through the cell phone. They're not trained forensically on how to not alter original evidence on any kind of device that they may find.

And that's not an indictment of their agency, but they are their rules, so they have to live by their rules. It's inadequate -- the nature of these charges, including his downloading of these images from the Internet, and his use of his phone, and his use of, excuse me, electronic equipment to commit these crimes, the nature of these crimes makes them extremely difficult to eradicate the danger that still exists to children if he were to be released because of the limited power of Pretrial Services. It's wholly inadequate in this case.

And I would say to the Court, in -- I would say in the last ten years that I've been supervising these cases, I can't think of one defendant who was charged with this offense that has ever been released. I will say that we have the other half of Probation, the supervising probation officers, contact me repeatedly, multiple times a month for people who are on

probation being supervised, convicted offenders, who are violating by continuing to access devices that they've not reported to their probation officers. Unlike Pretrial Services, those probation officers can search the materials; can look through the phones; are trained in how to make sure that the evidence is not destroyed.

We do not have that here. And for that reason, the demonstrated danger that he's posed to this child, to all the other kids that he's victimized as part of his Internet crimes mandates that he should be kept incarcerated while pending trial.

THE COURT: All right. Ms. Marr?

MS. MARR: Yes. Your Honor, may I just respond briefly? My client is 58 years old. He's never been in trouble in his life. The allegation regarding this young lady is they were neighbors, and there is -- the allegation and the facts are that my client is in his home, and this young lady is in her home in her window -- and I've seen the pictures because we went in, in her window in front of her window naked, knowing that my client's home is right there with an open window, or potentially open window.

My client never -- he does have pictures of her on the street, but -- and also this -- this young lady is 14. I know for purposes of production of child pornography from the federal statute and the federal case law that mistake of age is

not a defense, but this is a -- it's a stretch of a case for -- for production. And ultimately, this girl was 14, and my client clearly did not know how old she was.

Over a year went by, according to the AUSA, there was no contact. And I have to take umbrage with the fact that she says that my client was going to -- attempting to meet with her. He said, you need to talk to me. The word was "talk." Did not say meet.

Part of the thing with production, and the fact that age of the victim doesn't matter is because the idea is that person that produced the child pornography met with the child and, you know, induced, and got the child to take off the clothes, and had all this contact, which would indicate that you know that that child is a minor.

In this case, you've got my client in his house, this young lady in her house. He never spoke to her one time.

There's no talk. There's no texting. Other than him handing her the letter, and I believe that he admitted that he said, you know, you might want to -- you might want to read this in private. So, he said that to her. She -- I believe she said, okay.

So, other than that, he specifically did not know her age. He knew she played soccer. I think he knew what school she went to, but she could be 18 in high school and playing soccer, and all of that. She's fully developed. She's not

prepubescent.

And the place where he would live, and I think this is most important, with his daughter is far away from this neighborhood. His house is already -- the intention is to sell his house. And with him being in custody, all of that -- he's not able to obtain legal fees. He's not able to work. He's not able to sell the house.

Also, in terms of what pretrial supervision can do and not do, his daughter cares enough about him. She has no children, she's 28. She's here, you know, with her boyfriend before Your Honor, taking the time off from work to be here to say, yes, I will, you know, be -- my dad can live with me.

Are they going to watch every move? Is anybody going to be able to watch every move? No. But my client didn't even have a computer. He doesn't have a computer in his home. He's not computer literate. The most he has is a cell phone.

A lot of these child pornography cases, there's BitTorrent, and there's ShareFiles, and drives, and software. He knows none of that. There was none of that. It was just his cell phone.

And there's been no admission regarding the images that were found on the cell phone. He lived with his brother.

But in terms of this young lady, this young lady is safe, she's protected. He did not proposition her in that letter. He did not say, meet up with me, I want to get with

you. Was it a sexually motivate or a -- was it a letter having a lot of sexual content? Yes. But it was things that he saw either her doing, because she was doing it in front of an open window -- like, he never went up to her house and looked in. It was from his window.

So, I'm not trying to bash the victim here. She's a 14-year-old girl.

But what I have here is a 50-year-old -- 58-year-old man that's never been in trouble in his life, and he's charged with extremely serious offenses. He has potential defenses. He's been fully cooperative. He has a place to live where the victim involved in this case would be nowhere near him. And there's no other evidence that he ever did chat rooms or reached out to any children.

Not everybody should be incarcerated on these charges. I know about the presumption, but you have the ability to overcome that. I've had other cases in other districts where, you know, people had two -- a specific individual had 2,000 images of baby, and infant, and toddler pornography, and was released on pretrial supervision, and was a computer expert. So, I personally went to the house and removed, like, nine hard drives and computers so that -- and routers and things so that he wouldn't have access so we could go home to his house.

So, people do get released. And this is a case where

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   my client's brother and not the significant other.
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             MS. ROTELLA: And I --
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             THE COURT: Are there other people here to support
   this client today?
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 5
             MS. MARR: Excuse me?
 6
             THE COURT: Are there other people here to support
 7
   the client today?
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             MS. MARR: Just his daughter in the back row and his
   brother, who I didn't realize, because we met quickly, was his
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   brother and not her significant other. But her significant
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   other is the one that has a job for him, and I believe she
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12
   brought evidence of that, as well, a letter that he would
13
   employ him if he were released.
14
             MS. ROTELLA: Just --
             MS. MARR: But I apologize for that incorrect
15
16
   statement.
             MS. ROTELLA: Two more things. The one -- one other
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   thing is that the address that they're advocating where the --
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   I don't know -- the boyfriend may live is close in proximity to
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20
   a school. So, I don't know how that would work, because he
21
   would have access to -- it's one mile from an elementary
   school, and five miles from a high school and another middle
22
23
   school. So, there's three schools that are at issue right
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   where they're proposing that he now move to.
25
             And in terms of the other proofs, which I -- is laid
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out in the memo, he did confess. He did confess, not just in this written letter to manufacturing child pornography, but he came in, was Mirandized; his lawyer was with him. He did confess to manufacturing child pornography to FBI agents and to the Philadelphia Police Department.
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And then he was shown printed out photographs from what was taken from his phone that depicted the child victim in sexually explicit positions, and he acknowledged that he manufactured those.

So, conviction here is very, very high. The penalties are very, very high. He will be in prison for a significant amount of time.

He poses an extreme danger. And there's just no justification to release him.

THE COURT: Would you concede that he is likely to show up for trial?

MS. ROTELLA: I mean, I can't concede that. I admit that that's not as great a basis to hold him.

THE COURT: I just wanted to focus my attention on your argument of danger if --

MS. ROTELLA: Yes.

THE COURT: -- there's no real issue as to whether or not he would at least come to court.

MS. ROTELLA: I mean, the only reason why I would say that, Your Honor, is because although he's got some -- you

know, he has a daughter here, and he's got a brother here. He also faces a significant -- much of the rest of his life, he's older, in prison. And so that does give, you know, people -- and he's got a mental health history.

And so for those reasons, I can't say that that -that has been rebutted. I still think it presents a factor
here.

THE COURT: All right. Anything else you want to say before I make my ruling?

MS. MARR: Thank you, Your Honor.

Just to the extent that when he was contacted by the police, my client had every opportunity to destroy his phone. He went home and met with the -- and met with the police. They executed the search warrant. He's been fully cooperative. He showed up for the police. He hired private counsel. He admitted to certain things.

Again, I believe that there are some issues in terms of the manufacturing aspect of the charge, but I will, you know, argue that on another day.

But he -- there -- I don't believe there's any issue with him not showing up. He's not a world traveler. He's got a 10th or 11th grade education. He's not somebody that's got -- that's been traveling overseas that has out-of-the-country contacts. He's not from Ecuador, or something where he's just going to go to some other country. That's not even in his

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wheelhouse.
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So, I don't believe that's an issue. And I believe that the matter of the safety has been addressed. If he's got, you know, a GPS monitor -- you know, he's always lived by a school. For -- you know, he's lived in the Bridesburg area his entire life of 58 years. He's grown up there. So, he's always been by schools, having that access.

So, the idea that now he would be under indictment and facing federal charges, that he would now choose to, "oh, let me go to a school and reach out to a child" is insane because if he was going to engage in that behavior, he never did it over 58 years, other than these allegations regarding this young lady. And we know to the extent that that occurred, and he would be nowhere near her with all of -- with the supervision.

And -- and I believe, Judge, how's he going to defend himself if he's incarcerated all this time? It just makes it nearly impossible.

MS. ROTELLA: That's --

MS. MARR: Thank you.

MS. ROTELLA: That's not a proper consideration, it's not. And every other defendant in this district somehow finds a way. It makes it more difficult for counsel, but that's not a proper consideration for detention.

THE COURT: All right. I've listened to the

argumentation.

I have two things I'm supposed to determine in setting bail:

One is, will the person show up for court? I find that it looks and appears that he would be cooperative and show up when he's summoned to do so.

But the second thing that I have to consider is whether or not he's at any safety risk presently for the community at large. Not to a specific individual, but in general.

They have put 17 restrictions on him. I have had other cases in this court where, as you stated, besides having restrictions, they have still gone into computers and done things to access underage people.

It is not a defense, as was stated, to not know the age of the child, or that she participated willingly in doing things that provoked his interest.

This is a very serious incidence of stalking. He's facing a 15-year mandatory minimum, so there -- this is a presumption case. And the government has shown a lot of strong evidence, including the fact that he debriefed with law enforcement, stating, yes, he did these -- or certain things.

That strength of evidence helps to give them their presumption and preserve it. You have to overcome that presumption. And you've done well.